

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Dinuba to construct new at-grade crossing at Ventura Street across the tracks of SJVRR and the removal of the at-grade crossing at Mono Street in the City of Dinuba, County of Tulare.

Application 04-10-028
(Filed October 15, 2004)

O P I N I O N**Summary**

This decision grants the request of The City of Dinuba (City) to construct an at-grade highway-rail crossing (crossing) over the tracks of the San Joaquin Valley Railroad (SJVRR) at Ventura Street and to close the existing crossing at Mono Street. The new crossing will be identified as Commission Crossing No. 103BC-235.20.

Discussion

The City requests authority to build an at-grade highway-rail crossing across the tracks of SJVRR at Ventura Street at approximate milepost 235.20, in Tulare County. The proposed public crossing will provide improved public access between general commercial, light industrial and residential zones southwest of the crossing and the downtown commercial district northeast of the crossing. The crossing at Mono Street (103BC-235.40) will be closed in conjunction with opening the crossing at Ventura Street.

The proposed at-grade crossing will be a 40-foot wide two-lane crossing with a concrete panel surface. Warning devices will consist of one Commission

Standard #9A automatic gate with flashers and cantilever westbound and one Commission Standard #9 automatic gate with flashers eastbound with pavement markings and W10-1 advanced warning signs in both directions approaching the crossing.

The SJVRR currently runs 8 freight trains per week, running at 20 mph through this corridor.

The Commission's Rail Crossings Engineering Section (RCES) requested that the City submit a statement showing why a separation of grades is not practicable. On November 18, 2004, the City replied that a separation of grades is not practicable because it would be necessary to remove a new six-screen theater and houses.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq. In Resolution 2004-61, dated August 24, 2004, the City adopted a Negative Declaration for the project and on September 14, 2004, the City filed a Notice of Determination with Tulare County for the project and found that the crossing will not have a significant effect on the environment. Mitigation measures were not made a condition for approval of the project.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15059(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

We have reviewed the lead agency's Notice of Determination and Negative Declaration for the project and find that they are adequate for our decision-making purposes. Safety, transportation and noise are within the scope of the Commission's permitting process.

The City's environmental documents did not identify any significant environmental impacts associated with safety, transportation or noise as a result of the project. Based on our review we believe the City reasonably concluded the project would not cause significant environmental impacts and we adopt that finding for purposes of our approval.

RCES inspected the site and examined the need for, and safety of the crossing. RCES recommends that the requested authority sought by the City be granted for a period of two years.

Application 04-10-028 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3141 dated October 28, 2004 and published in the Commission Daily Calendar on October 29, 2004 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3141.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on October 27, 2004. No protests have been filed.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade highway-rail crossing across the tracks of SJVRR, to be identified as Crossing No. 103BC-235.20.
3. The proposed public crossing will provide improved public access between general commercial, light industrial and residential zones southwest of the crossing and the downtown commercial district northeast of the crossing.
4. The crossing at Mono Street (103BC-235.40) will be closed in conjunction with opening the crossing at Ventura Street.
5. Public convenience, safety and necessity require the construction of the crossing in Tulare County.
6. Public safety requires that the crossing be equipped with one Commission Standard No. 9 automatic gate with flashers, one Commission Standard No. 9A automatic gate with cantilever and flashers, pavement markings and advance warning signs.
7. SJVRR currently runs 8 freight trains per week at 20 mph.
8. The City is the lead agency for this project under CEQA, as amended.
9. On August 24, 2004, the City adopted a Negative Declaration for the project, and found that the crossing will not have a significant effect on the environment. Mitigation measures were not made a condition of approval.

10. The Commission is a responsible agency for this project, has reviewed the City's environmental documents and finds them adequate for our decision-making purposes.

11. Safety, transportation and noise are within the scope of the Commission's permitting process.

12. The City's environmental documentation did not identify any potential significant environmental impacts related to safety, transportation and noise.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.

2. We find that the City reasonably concluded the project would not result in any significant environmental impacts and we adopt that finding for purposes of our approval.

3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Dinuba (City) is authorized to construct a new at-grade highway-rail crossing (crossing) across the tracks of the San Joaquin Valley Railroad (SJVRR) at the location as shown on the plans attached to the application, identified as Commission Crossing No. 103BC-235.20.

2. The crossing shall be equipped with one Commission Standard No. 9A automatic gate with flashers and cantilever westbound and one Commission Standard #9 automatic gate with flashers eastbound, pavement markings and advance warning signs.

3. The City shall close the Mono Street crossing upon the opening of the crossing at Ventura Street.

4. The City shall comply with all applicable General Orders, Manual on Uniform Traffic Control Devices (including the California Supplement), and CalTrans Highway Design Manual.

5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the City and SJVRR (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Within 30 days after completion of this project, SJVRR shall notify the Commission's Rail Crossings Engineering Section in writing by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.

7. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

8. This application is granted as set forth above.

9. Application 04-10-028 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.